

**Introduced by Senator Machado**  
(Principal coauthor: Assembly Member Matthews)

February 19, 2004

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An act to amend Sections 3043, 3043.2, and 3043.25 of the Penal Code, relating to parole.

LEGISLATIVE COUNSEL'S DIGEST

SB 1516, as introduced, Machado. Parole: hearings.

Existing law, added by initiative statute requiring a  $\frac{2}{3}$  vote of each house for amendment, provides that the Board of Prison Terms must give notice of a parole suitability hearing for a prisoner, upon request, to a victim or next of kin if the victim has died. Under existing law, those people, or two members of the victim's immediate family, have the right to appear and express their views for consideration by the board in its decision on parole for the prisoner.

This bill would alternatively provide two representatives designated by the victim or next of kin in writing prior to the hearing with the right to appear and express their views for consideration by the board in its decision on parole for the prisoner, except that any statement provided by a representative designated by the victim or next of kin would be limited to comments concerning the effect of the crime on the victim.

Existing law provides that the board may permit the victim, next of kin, or immediate family members, in lieu of appearance, to file with the board a written, audiotaped, or videotaped sentencing or other statement expressing their views of the crime and the person responsible.

This bill would require the board to permit those statements from a victim, next of kin, or immediate family members in lieu of appearance, and would alternatively require the board to permit two representatives

designated by the victim or next of kin in writing prior to the hearing to file written, audiotaped, or videotaped statements. However, the statements of designated representatives would be limited to comments concerning the effect of the crime on the victim.

Existing law permits a victim, next of kin, or family member authorized to appear at a parole suitability hearings in person or through recorded statements, as provided above, to also appear by videoconferencing, where available.

This bill would extend this teleconferencing authorization to representatives designated by the victim or next of kin in writing prior to the hearing.

Because it would amend the initiative measure, this bill requires a  $\frac{2}{3}$  vote.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 3043 of the Penal Code is amended to  
2 read:

3 3043. Upon request, notice of any hearing to review or  
4 consider the parole suitability or the setting of a parole date for any  
5 prisoner in a state prison shall be sent by the Board of Prison Terms  
6 at least 30 days before the hearing to any victim of a crime  
7 committed by the prisoner, or to the next of kin of the victim if the  
8 victim has died. The requesting party shall keep the board apprised  
9 of his or her current mailing address.

10 The victim, next of kin, ~~or~~ two members of the victim's  
11 immediate family, *or two representatives designated by the victim*  
12 *or next of kin in writing prior to the hearing* have the right to  
13 appear, personally or by counsel, at the hearing and to adequately  
14 and reasonably express his, ~~or~~ her, *or their* views concerning the  
15 crime and the person responsible, *except that any statement*  
16 *provided by a representative designated by the victim or next of kin*  
17 *shall be limited to comments concerning the effect of the crime on*  
18 *the victim.* The board, in deciding whether to release the person on  
19 parole, shall consider the statements of victims, next of kin, ~~and~~  
20 immediate family members of the victim, *and the designated*  
21 *representative of the victim or next of kin, if applicable,* made  
22 pursuant to this section and shall include in its report a statement

1 of whether the person would pose a threat to public safety if  
2 released on parole.

3 In those cases where there are more than two immediate family  
4 members of the victim who wish to attend any hearing covered in  
5 this section, the board may, in its discretion, allow attendance of  
6 additional immediate family members or limit attendance to the  
7 following order of preference: spouse, children, parents, siblings,  
8 grandchildren, and grandparents.

9 The provisions of this section shall not be amended by the  
10 Legislature except by statute passed in each house by rollcall vote  
11 entered in the journal, two-thirds of the membership concurring,  
12 or by a statute that becomes effective only when approved by the  
13 electors.

14 SEC. 2. Section 3043.2 of the Penal Code is amended to read:

15 3043.2. (a) In lieu of personal appearance at any hearing to  
16 review the parole suitability or the setting of a parole date, the  
17 Board of Prison Terms ~~may~~ *shall* permit the victim, his or her next  
18 of kin, ~~or~~ immediate family members, *or two representatives*  
19 *designated by the victim or next of kin in writing prior to the*  
20 *hearing* to file with the board a written, audiotaped, or videotaped  
21 statement expressing his or her views concerning the crime and the  
22 person responsible. The statement may be personal messages from  
23 the person to the board made at any time or may be a statement  
24 made pursuant to Section 1191.16, or a combination of both,  
25 *except that any statement provided by a representative designated*  
26 *by the victim or next of kin shall be limited to comments concerning*  
27 *the effect of the crime on the victim.* The board shall consider any  
28 statement filed prior to reaching a decision, and shall include in its  
29 report a statement of whether the person would pose a threat to  
30 public safety if released on parole.

31 (b) Whenever an audio or video statement is filed with the  
32 board, a written transcript of the tape shall also be provided by the  
33 person filing the statement.

34 (c) Nothing in this section shall be construed to prohibit the  
35 prosecutor from representing to the board the views of the victim,  
36 his or her immediate family members, or next of kin.

37 (d) In the event the board permits an audio or video statement  
38 to be filed, the board shall not be responsible for providing any  
39 equipment or resources needed to assist the victim in preparing the  
40 statement.

1 SEC. 3. Section 3043.25 of the Penal Code is amended to  
2 read:

3 3043.25. Any victim, next of kin, ~~or~~ members of the victim's  
4 immediate family, *or representatives designated by the victim or*  
5 *next of kin in writing prior to the hearing* who have the right to  
6 appear at a hearing to review parole suitability or the setting of a  
7 parole date, either personally as provided in Section 3043, or by  
8 a written, audiotaped, or videotaped statement as provided in  
9 Section 3043.2, and any prosecutor who has the right to appear  
10 pursuant to Section 3041.7, shall also have the right to appear by  
11 means of videoconferencing, if videoconferencing is available at  
12 the hearing site. For the purposes of this section,  
13 "videoconferencing" means the live transmission of audio and  
14 video signals by any means from one physical location to another.

